

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF U S WEST INTERPRISE)
AMERICA, INC. FOR A CERTIFICATE OF PUBLIC) CASE NO. 96-054
CONVENIENCE AND NECESSITY TO PROVIDE)
INTRASTATE TELECOMMUNICATIONS SERVICES)

O R D E R

On February, 22, 1996, U S West Interprise America, Inc. ("U S West Interprise") submitted an application to the Commission seeking a Certificate of Public Convenience and Necessity to provide intrastate telecommunications services within the Commonwealth of Kentucky. Deficiencies in the application were cured on March 13, 1996. On May 2, 1996, U S West Interprise filed its response to the Commission's April 11, 1996 Order requesting additional information.

U S West Interprise is a Colorado corporation with its principal office in the state of Colorado and intends to provide data transport services to business customers within Kentucky. These services will compete directly with similar services provided by local exchange carriers and interexchange carriers. U S West Interprise's initial service offering will be limited to non-switched, dedicated services. U S West Interprise does not seek authority to provide basic local exchange service.

U S West Interprise does not own or operate, nor does it intend to construct, any telecommunications transmission facilities within the Commonwealth of Kentucky. All of

its intrastate telecommunications transmission services will be provided by Louisville Lightwave, an underlying carrier certified by this Commission.

In support of its application, U S West Interprise cites Section 253 of the Telecommunications Act of 1996 ("the Act"), which states in part:

- (a) In General. No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.
- (b) State Regulatory Authority. Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

U S West Interprise claims that, given the federal legislation's intent and the limited nature of its service offering, issues regarding local exchange competition and universal service currently being considered in Administrative Case No. 355¹ need not be resolved prior to approval of the authority requested in its application.

The Commission's decision in Case No. 95-047,² to hold in abeyance and address Louisville Lightwave's petition for authority to provide non-switched intrastate telecommunications services within an exchange or local calling area in Administrative Case No. 355, is currently under review. The same issues being considered in Case No.

¹ Administrative Case No. 355, An Inquiry Into Local Competition, Universal Service and the Non-Traffic Sensitive Access Rate.

² Case No. 95-047, The Application of Louisville Lightwave for a Certificate of Public Convenience and Necessity to Construct Facilities and Provide Intrastate Telecommunications Services.

95-047 would likely apply to the instant case. The Commission believes that full review of issues relevant to the public protection that are presented both by this application and by Case No. 95-047 are fully consonant with its authority pursuant to the Act. Therefore the Commission finds that U S West Interprise's authority should be limited to interexchange services and not include services within an exchange or local calling area, pending full review of public interest concerns already at issue in Case No. 95-047.

The application provided by U S West Interprise demonstrates its financial, managerial, and technical capability to provide utility service. The Commission finds that U S West Interprise should be authorized to resell intrastate interexchange telecommunications services within the Commonwealth of Kentucky.

U S West Interprise filed its proposed tariff on February 22, 1996. In response to the Commission's request for additional information, U S West Interprise filed revised tariff sheets on May 2, 1996. The Commission finds that the rates proposed by U S West Interprise, as revised on May 2, 1996, and in accordance with the following modifications, should be approved as the fair, just, and reasonable rates to be charged, with the exception that services provided on an intraexchange basis are restricted as described herein pending further order of the Commission. U S West Interprise should:

1. Rewrite Section 2.11, Original Page 19 of the proposed tariff, in accordance with 807 KAR 5:006, Section 9; and
2. Rewrite Section 2.12.4, Original Page 20, in accordance with KRS 278.460.

In Administrative Case No. 306,³ the Commission stated the importance of eliminating possible customer confusion arising from the name of the billing service, rather than the name of the provider of telecommunications services, appearing on the bill. Accordingly, U S West Interprise should ensure that its name appears prominently on all bills issued to customers for services rendered.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, HEREBY ORDERS that:

1. U S West Interprise be and it hereby is granted authority to resell intrastate interexchange telecommunications services within the Commonwealth of Kentucky on and after the date of this Order.

2. U S West Interprise shall ensure that its name appears prominently on all bills issued to customers for services rendered.

3. U S West Interprise's authority to provide service is strictly limited to those services described in this Order and U S West Interprise's application.

4. IntraLATA services shall be provided in accordance with the restrictions and conditions of service contained in Administrative Case No. 323.⁴

5. The rates proposed by U S West Interprise on February 22, 1996, as revised on May 2, 1996, and by this Order, are hereby approved.


³ Administrative Case No. 306, Detariffing Billing and Collection Services, Order Dated April 30, 1990.


⁴ Administrative Case No. 323, An Inquiry Into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

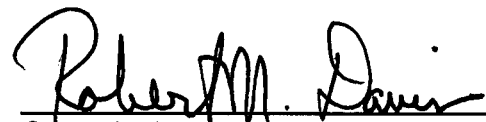
6. Within 30 days from the date of this Order, U S West Interprise shall file, pursuant to 807 KAR 5:011, its February 22, 1996 tariff sheets, as revised on May 2, 1996, with the modifications described in this Order.

Done at Frankfort, Kentucky, this 17th day of July, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director